

### **Remark**

Applicants respectfully request reconsideration of this application as amended. Claim 1 has been amended. No claims have been canceled. Therefore, claims 1-33 are now presented for examination.

### **35 U.S.C. §101 Rejection**

The Examiner has rejected claims 1-14 under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention. Applicants apologize for the error in not previously amending the claims. Claim 1 is now amended. Applicants were unable to find the May 15, 2008 memorandum “Clarification of Processes under 35 U.S.C. 101.” However Applicants were able to find the August 2009 “Interim Examination Instructions for Evaluating Subject Matter Eligibility under 35 U.S.C. §101” from Andrew Hirshfeld, Acting DCPEP. In the attached August 24 Memorandum from Mr. Hirshfeld, these Instructions are stated to supersede any previous guidance that conflicts with it.

Claim 1, accordingly, has been amended based on Claim 6 of the above-mentioned instructions. In Claim 1, performing a search of a database to find a list inherently requires a programmed microprocessor or the like. Unlike Claim 6 of the instructions, however, the database operations of Claim 1 are central to the purpose of the method invented by the Applicants. Accordingly, the machine required for searching imposes a meaningful limit and involves more than just insignificant extra-solution activity.

Accordingly, Applicants respectfully submit that this subject matter rejection is traversed by the amendment.

## 35 U.S.C. §102 Rejection

### *Ellis*

The Examiner has rejected claims 1-4, 6, 10-18, 20-25 and 30-32 under 35 U.S.C. §102(e) as being anticipated by Ellis et al., U.S. Patent No. 7,185,355 (“Ellis”). The Examiner has maintained the previous rejection in which “multiple stored preferences lists” of Claim 1 are read onto “display format options 182” of Ellis. Claim 1 has been amended to more clearly define these lists as “multiple stored preferences lists corresponding to the current user”... “preferences lists stored in a database of the entertainment system” and “each of the preferences lists containing multiple entertainment programming channel identifiers.”

The Examiner argues that the “display format options” are inherently stored preference lists as it is not possible to display data which is not stored.” Applicants assert that Ellis has a single stored master list of programs and that when the user selects a display format, then a filter is applied to the list so that only the channels that match the display format filter are displayed. However, the single stored master list is not changed.

Ellis states, “all display formats and tuning modes are restricted to the programs and channels that satisfy the user’s preferences.” (Col. 12, lines 6 et seq., Col. 13, lines 3 et seq.) There is no suggestion here that multiple lists be separately stored. Ellis states, “the program guide provides the user with the opportunity to select a display mode in which all programs are displayed, but in which highlight movement is restricted to programs satisfying the user’s preferences in the active profile.” (Col. 12, lines 8 et seq.) This points to a single stored list that can be restricted and filtered.

In contrast to Ellis, Claim 1 has multiple preferences lists for one user that are [1] already stored, [2] then searched, [3] then displayed, [4] before the user selects one.

While the Examiner claims that Ellis shows searching for lists, this is in direct contradiction to the presence of the SEARCH display format option of Fig. 18.

Otherwise Ellis does not suggest searching, only restricting. This must also be implied by the Examiner, but it is simply not in Ellis.

Ellis presents a fundamentally different approach in which the display is changed by restriction depending upon the display format options. Claim 1 provides for multiple lists that are pre-stored and can be selected by user command.

For these reasons, Applicants respectfully submit that Ellis does not show each and every element of the claims invention and that therefore, the rejection as to all of the claims is traversed.

### **35 U.S.C. §103 Rejection**

#### *Ellis and Stinebruner*

The Examiner has rejected claims 5, 7-9, 19, 26-29 and 33 under 35 U.S.C. §103(a) as being unpatentable over Ellis, in view of Stinebruner, U.S. Patent No. 6,133,910 (“Stinebruner”). This rejection relies on the Ellis rejection, above, and is believed to be traversed on the same grounds.

### **Conclusion**

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

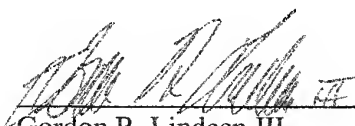
### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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